Service Area Plan

Department of Health

Regulation of Health Care Facilities (40607)

Service Area Background Information

Service Area Description

This service area implements the Virginia medical facilities and services licensure laws and regulations in order to assure quality of care and protect the public. This is accomplished through:

•Licensure of five categories of medical care facilities or services: hospitals, outpatient surgical hospitals, nursing facilities, home care organizations, and hospice programs;
•Regulatory development to establish minimum requirements to assure quality health care, while assuring efficient and effective program operation;
•Certification and registration programs for managed care health insurance plans and private review agents;
•Investigation of consumer complaints regarding the quality of health care services received;
•Providing training and technical assistance to medical facilities and practitioners; and
•Inspection and enforcement of medical care facility and services licensing laws and regulation.

Service Area Alignment to Mission

This service area aligns with VDH's mission to protect and promote public health by establishing and enforcing minimum standards of quality and safety in the delivery of health care services.

Service Area Statutory Authority

Chapter 5 of Title 32.1 of the Code of Virginia establishes the state licensure program and directs implementation of regulations to ensure providers are meeting the minimum standards for operating nursing facilities, hospitals, outpatient surgical hospitals, home care organizations, and hospice programs.

Service Area Customer Base

Customer(s)	Served	Potential
Ambulatory surgery centers – survey every 6 years	48	48
Clinical Laboratories - survey every 2 years. 5% of accredited labs	4,254	4,254
Complaints Investigated (all provider categories) If immediate jeopardy, investigation is within 10 days, otherwise 30-45 days.	1,200	1,200
Comprehensive outpatient rehabilitation facilities – survey every 6 years, (1,100 clients)	11	11
Critical Access Hospitals – survey every 3 years, (150 beds)	6	6
End stage renal disease facilities – survey every 3 years, (8,477 patients)	129	129
Home care organizations - inspected biennially in FY2006, (12,375 patients)	122	122
Home health services – survey every 3 years, (78,000 clients)	165	165
Hospice programs - inspected biennially in FY2006, (10,800 patients)	72	72
Hospice providers – survey every 5 years, (8,700 clients)	58	58
Hospitals – Surveys at 1% of accredited facilities. At unaccredited facilities every 3 years. (19,395 beds)	101	101
Inpatient Hospitals - inspected biennially, (19,395 beds)	94	94
Intermediate care facilities for the mentally retarded (ICF/MRs) – annual surveys, (2,163 beds)	26	26
Managed care health insurance plans – examined every three years, (5,461,138 enrollees)	94	94
Nursing facilities – annual surveys, (30,897 beds)	279	279
Nursing facilities - inspected biennially, (31,291 beds)	279	279
Outpatient physical therapy services - survey every 6 years, (12,400 clients)	124	124
Outpatient surgical hospitals - inspected biennially, (146,002 procedures performed)	48	48
Portable x-ray services - survey every 6 years, (13,920 clients)	12	12
Private review agents – examined annually, (2,000,000 cases reviewed)	80	80
Psychiatric hospitals - survey every 6 years, (335 beds)	9	9
Psychiatric units – Prospective payments System Exclusions (PPS exclusions) survey every 6 years, (1,368 beds)	31	31
Rehabilitation hospitals – PPS exclusions, survey every 6 years, (427 beds)	9	9
Rehabilitation units of hospitals – PPS exclusions, survey every 6 years, (534 beds)	20	20
Rural health clinics - survey every 6 years, (540,000 patients)	54	54

Anticipated Changes In Service Area Customer Base

VDH expects the general public and business customer base to increase over the next few years. As Virginia's population ages, there is an increasing need for additional in-home services. Home care and hospice are the two fastest growing programs in the service area.

The need for long term care services continues to grow. In FY05, eight new nursing homes were constructed and ten new ICF/MR facilities were developed. Increasingly, nursing facilities are providing services for consumers in need of post acute and rehabilitation care.

Virginia's older population living at or below the poverty level represents a higher percentage of all persons living below poverty than the national average.

Service Area Products and Services

- Licensing:
  • Conduct review of licensing applications and handle coordination with other agencies' regulatory requirements;
  • Licensing assures service providers are acting within the law.
- Inspection and enforcement:
  • Thorough and consistent inspection and enforcement of laws and regulations addressing health care quality is provided. Assessment of provider and individual responsibility is performed as appropriate. Investigation of critical incidences and complaints;
  • Inspection and enforcement services assist consumers by maintaining safe and protective facilities and services in compliance with regulatory requirements;
  • Medical facility inspectors, who conduct both state and federal regulatory inspections, are health care professionals such as physicians, nurses, dietitians, social workers, and laboratory medical technologists.
- VDH is the state survey agency for the federal survey and certification program under agreement with the Centers for Medicare and Medicaid Services (CMS). Inspection activities satisfy both state licensure and federal certification requirements. The majority of service area activities regarding medical facilities, services or programs involve the federal certification process. Title XVIII and XIX of the Social Security Act establishes the federal certification program for medical care entities receiving federal reimbursement and mandates the minimum health and safety standards that must be met by providers and suppliers participating in Medicare and Medicaid.

  VDH is the state survey agency for the federal Clinical Laboratory Improvement Act (CLIA) mandating all laboratories, including physician offices, meet applicable federal requirements and have a CLIA certificate in order to operate;

  The Clinical Laboratory Improvement Act of 1988 (Public law 100-578, section 353 of the Public Health Service Act (42 USC 263a)), Section 6141 of the Omnibus Reconciliation Act of 1989 (OBRA '89) (Public Law 101-239);

  VDH has Interagency agreements with the: (i) Department of Medical Assistance Services (DMAS) to conduct the federal survey and certification requirements of CMS, (ii) State Fire Marshal's Office to conduct Life Safety Code inspections. To receive Medicare certification, medical facilities must comply with the Life Safety Code. Under the interagency agreement with VDH, the Fire Marshal's offices conducts life safety code surveys and certifies compliance/noncompliance to VDH; and, (iii) Department of Health Professions (DHP) to administer the nurse aide training and registration program required by CMS. Under the interagency agreement with VDH and DMAS, DHP is responsible for examining approximately 250 LTC nurse aide training and education programs for compliance with federal standards, and; maintains a registry of approximately 33,000 trained and certified nurse aides employed in federally certified LTC facilities;

  Confirmed cases of resident abuse and neglect are reported to the Adult Protective Services Unit of the Department of Social Services;

  VDH communicates with the Office of the State Ombudsman regarding individual client issues related to delivery and quality of services;

Service Area Products and Services

- Regulatory development:
  Establish minimum operational requirements consistent with governing laws and nationally accepted medical practices.

  Assure consumers that uniform quality assurance standards are being maintained;
  Invite consumer and provider input in development.

- Customer assistance:

  Provide training, consultation and technical assistance, education, and cooperative projects in areas such as abuse/neglect/exploitation, disaster planning and recovery, pressure ulcer reduction, emergent care, and inspection processes. Provided in collaboration with various industry groups and associated state agencies.

  Resident Assessment Instrument training - States are required by CMS to use the Resident Assessment Instrument (RAI) in federally certified facilities to assess the clinical characteristics and care needs of residents. Currently, federally certified nursing homes and home health agencies are required to encode and transmit RAI records to a repository maintained by VDH. The primary goal of the federal RAI system is to target potential problem facilities by focusing onsite survey activities on the identified problem areas. The RAI system has grown each year as new federal provider categories are added. The RAI system is central to improving the state's ability to evaluate the cost-effectiveness and quality of care. The high degree of consistency and accuracy currently shown by providers in transmitting RAI data to VDH is attributable to the VDH education and training programs that have been presented to federally certified providers, provider associations and consumer groups. During fiscal year 2004, VDH presented training programs to more than 3,000 individuals.

  Administer complaint services responsive to ensure safe and protective environments in compliance with statutory and regulatory requirements. VDH receives approximately 1200 consumer complaints annually.

  Conduct informal dispute resolution conferences for nursing facility providers disputing the results of a federal certification inspection;

  Responding to Freedom of Information requests, specifically in long term care;

  Expanding the information available to providers via the Internet.

Factors Impacting Service Area Products and Services

•Complaint investigations are expected to increase as consumer knowledge and awareness of health care services increases;
•Expansion of web-based electronic government capability will increase the efficiency of VDH licensing and certification operations;
•Implementation of new requirements without sufficient funding from CMS strains department resources for inspections, complaint investigations, and training needs;
•Turnover rate in qualified staff to conduct inspections and investigations has resulted in delays in inspection processes;
•Complexities of the regulatory promulgation process have delayed efforts to comprehensively revise the mandated licensure regulations in a timely fashion resulting in outdated and ineffective regulations remaining in place;
•Any reductions in funding or workforce would adversely affect VDH's ability to effectively carry out the mandates of the law.

Anticipated Changes To Service Area Products and Services

•The demand for VDH licensing services are anticipated to increase, as non-institutional service providers face continuing business challenges;
•VDH anticipates losing inspection staff with needed nursing credentials. In 2004, VDH experienced a 20% turnover rate among its inspection staff. Although the inspection staff recently received a salary retention raise, the VDH still faces increasing difficulty competing for nursing staff with the private sector. The nursing workforce is experiencing a decline, as current licensed nurses retire and leave the profession. It is estimated that on a national basis, there will be a 30% shortfall in registered nurse availability by 2020.

Service Area Financial Summary

Medicare Funding - The Medicare and Medicaid certification programs are funded by CMS from separate federal fund sources. Payments to states under §1864 of the Social Security Act are made from the Federal Hospital and Supplementary Medical Trust Fund. Administrative expenses under §1864 are authorized for expenditure from the Trust Funds only through the regular appropriation process of Congress. Title XVIII trust funds are controlled under terms of the state agreement with Department of Health and Human Services (DHHS). CMS annually outlines the priority of work to be accomplished by the state agency. The state agency must submit a budget that addresses the workload in the priority specified by CMS. The amount of the final Medicare budget approval from CMS is dependent upon approval by Congress, which generally occurs in late January each year. There is no state fund matching requirement for Medicare. The service area receives approximately $3.2 million from Medicare.

Medicaid Funding - (Title XIX of the Social Security Act), Section 1903 of the Act provides for federal grant mechanisms to pay the State agencies a percentage of the cost certification activities each quarter. The federal matching grants (federal financial participation, or FFP) come from appropriated general revenues of the United States. The Title XIX funds are controlled by the established rules of federal grant laws and regulations. There is a 75% federal/25% state matching requirement for all state Medicaid survey and certification program costs. Federal Medicaid funding for certification activities is available to state agencies based on the level of actual expenditures in the federal fiscal year. Federal program expenditures are reported quarterly in a federal fiscal year, which begins October 1 and ends September 30. With respect to Medicaid ICF/MR survey and certification activities, salaries, travel and training are charged 75% federal and 25% state match. All other costs are charged 50% federal Medicaid and 50% state match. The annual FFP for Medicaid received by the service area is approximately $1.6 million and the Medicaid State Match amount is $533,000.

CLIA Funding - The CLIA program is funded entirely by the collection of inspection fees by CMS. The total cost of the CLIA program is approximately $298,000 annually.

State Licensing Programs – The cost of licensing general and outpatient hospitals, nursing homes, home care and hospice is approximately $1.6 million annually. Annual licensing fees are collected which amount to approximately $105,000. Wherever possible, the long term care state licensing and the federal Medicare/Medicaid survey for the same facility are done simultaneously. When this occurs, the Center for Medicare and Medicaid Services (CMS) has agreed that Virginia will pay 22% of the costs, and that the remainder 78% will be paid for by CMS.

MCHIP Funding - There is a certification fee charged to MCHIPs and PRAs biennially, which is a percentage of the total amount of the premiums paid by the respective program's enrollees in Virginia, up to a maximum of $10,000. Revenues from MCHIPs and PRAs total approximately $450,000 biennially.

	Fiscal Year 2007		Fiscal Year 2008	
	General Fund	Nongeneral Fund	General Fund	Nongeneral Fund
Base Budget	$1,615,790	$6,122,062	$1,615,790	$6,122,062
Changes To Base	$100,990	$387,123	$100,990	$387,123
SERVICE AREA TOTAL	**$1,716,780**	**$6,509,185**	**$1,716,780**	**$6,509,185**

Service Area Objectives, Measures, and Strategies

Objective 40607.01

Improve the quality of life and the quality of health care provided to long-term care residents diagnosed with pressure ulcers, or at risk for acquiring pressure ulcers.

Pressure ulcers are lesions caused by unrelieved pressure that results in damage to the underlying tissue(s). Pressure ulcers may extend to the bone and may become infected. The available statistics state that the cost to heal a pressure ulcer of any significance averages between $10,000 to $40,000 for each occurrence. Most pressure ulcers are avoidable.

This Objective Supports the Following Agency Goals:

- Collaborate with partners in the health care and human services system to assure access to quality health care and human services.

  ( )
- Promote systems, policies and practices that facilitate improved health for all Virginians.

  (To inspire and support Virginians toward healthy lives and strong and resilient families.)

This Objective Has The Following Measure(s):

- **Measure 40607.01.01**

  Percentage of residents of long term care facilities who have pressure ulcers

  Measure Type: Outcome **Measure Frequency:** Annually

  Measure Baseline: The FY05 Virginia pressure ulcer rate was 10.5%.

  Measure Target: Below 10% by the end of FY07.

  Measure Source and Calculation:

  This measure is calculated using data from the federal Centers for Medicare and Medicaid Services (CMS) quality measure information system.

Objective 40607.01 Has the Following Strategies:

- The Office of Licensure and Certification (OLC) will participate in the CMS Pressure Ulcer Reduction Pilot program that will run for three years. CMS will fund a part-time Statewide Coordinator who will direct the special focus activities, involving nursing facility providers, consumers and advocates.
- OLC will provide focused training to facilities on pressure ulcer assessment reporting using face-to-face sessions as well as electronic training tools.
- OLC will participate with the Virginia Health Quality Center, the state Quality Improvement Organization, AARP and CMS in a pressure ulcer reduction summit to be held in 2006. OLC also participates as a member of the Virginia Pressure Ulcer Resource Team, that addresses the prevention and care of pressure ulcers in long term carefacilities.
- OLC will continue to provide training regarding pressure ulcer prevention and Care at the annual meetings of the Virginia Health Care Association, the for-profit long term care provider associations, and the Virginia Non-Profit Nursing Home Association, the non-profit providers association, and to VDH surveyor staff, surveyor supervisors and managers.